

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

DAVID FLYNN,	)	
	)	
<i>Plaintiff,</i>	)	
	)	Civil Action Number: 1:21-cv-10256-IT
v.	)	
	)	
MICHAEL J. WELCH, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	
_____	)	

**Plaintiff David Flynn’s Statement of Disputed Facts**

Plaintiff David Flynn, by counsel and pursuant to Rule 56.1 of the Local Rules of Civil Procedure submits this concise statement of the material facts of record as to which it is contended that there exists a genuine issue to be tried. Below, Flynn reproduces the numbered paragraphs appearing in Defendants’ statement of undisputed facts, together with subparagraphs and record citations concerning material disputes raised by Flynn.

1. David Flynn is a resident of the town of Dedham. Flynn Dep., 8:3-4. From 2011 to 2019, Flynn was the head football coach for Dedham High School. Flynn Dep., 19:9-12.

**Response: Not Disputed.**

2. Michael Welch is the Superintendent for Dedham Public Schools. Complaint ¶  
4. Jim Forrest is the Principal at Dedham High School. Complaint ¶ 5. Stephen Traister is the Athletic Director for Dedham High School. Complaint ¶ 6.

**Response: Not Disputed.**

3. As head football coach for Dedham High School, Flynn received yearly appointments from Dedham High School to coach the football team. Flynn Dep., 29:1-18. Flynn’s most recent yearly appointment was for the 2019 football season. Flynn Dep., 19:9-12.

As head football coach, Flynn received a stipend. Plaintiff's Initial Disclosures, Pg. 14. In 2019, the stipend was \$9,936. *Id.*

**Response: Disputed. In addition to the facts identified in this paragraph, Flynn estimates he would have earned \$9,944.00 during Fiscal Year 2021. Plf's Initial Disclosures (Ex A<sup>1</sup>). at 14.**

4. In the fall of 2020, Flynn's two children were enrolled in the Dedham public schools. Complaint ¶ 10. Specifically, Flynn's daughter was enrolled in 7<sup>th</sup> grade at the Dedham Middle School. Complaint ¶ 17.

**Response: Not Disputed.**

5. Because of COVID 19, at that time, Dedham public schools were operating remotely. Complaint ¶ 17.

**Response: Not Disputed.**

6. In addition, because of COVID 19, there was no high school football season in fall of 2020. Welch Dep., 52:18-22.

**Response: Not Disputed.**

7. In September 2020, Flynn expressed concern about the lessons being taught to his daughter in 7<sup>th</sup> grade social studies class. Complaint ¶¶ 20-22. Specifically, Flynn (and his wife) were concerned about the change in curriculum from World Geography and Ancient History to issues involving the unit on "identity," which discussed, among other things, citizenship and race relations, topics connected to the protests after George Floyd's murder. *Id.*

**Response: Disputed. Flynn disputes Defendants' characterizations of his and his wife's concerns. He also disputes that the concerns identified above are inclusive of all of their**

---

<sup>1</sup> "Ex." citations in Flynn's responses refer to exhibits to the Declaration of Michael Bekesha in Support of Plaintiff David Flynn's Opposition to Defendants' Motion for Summary Judgment.

**concerns. Flynn's emails speak for themselves. See Emails (Ex. B).**

8. Flynn and his wife contacted Kim Randall, their daughter's 7<sup>th</sup> grade social studies teacher and Karen Hillman, the principal of Dedham Middle School, to discuss their concerns. Complaint ¶ 22. After communicating with the Middle School, Flynn did not feel that his concerns were being addressed. *Id.*

**Response: Disputed. Flynn disputes Defendants' characterizations of his and his wife's communications. Flynn's emails speak for themselves. See Emails (Ex. B).**

9. As such, on October 7, 2020, Flynn sent an email to Michael Welch. Welch Exhibit 1; October 7-13, 2020 Emails. In the email, Flynn asked Welch for advice on how he should proceed with his concerns. *Id.* at 2. Some of Flynn's identified concerns were that the middle school's website did not have an updated curriculum for the 7<sup>th</sup> grade class and that parents were not informed about the change in curriculum. *Id.* at 2.

**Response: Disputed. Flynn disputes Defendants' characterizations of his and his wife's concerns. He also disputes that the concerns identified above are inclusive of all of their concerns. Flynn's email speaks for itself. See Emails (Ex. B).**

10. On October 8, 2020, Welch responded to Flynn, stating that the school district did not do a great job informing the community about the curriculum changes for the 7<sup>th</sup> grade class. Welch Exhibit 1; October 7-13, 2020 Emails; pg. 4.

**Response: Disputed. Flynn disputes Defendants' characterization of Superintendent Welch's email. Superintendent Welch's email speaks for itself. See Emails (Ex. B).**

11. Flynn responded to Welch on October 8, 2020. In his response, he expressed his concern that Ms. Randall, the 7<sup>th</sup> grade teacher, was not being objective in instructing the class on these issues. Welch Exhibit 1; October 7-13, 2020 Emails; pg. 4-5. Flynn believed Ms.

Randall was not being objective, as her “avatar” during on-line lessons was wearing a “Black Lives Matter” t-shirt. *Id.* at 5. On October 13, 2020, Welch responded to Flynn, thanking him for his perspective. *Id.* at 5.

**Response: Disputed.** Flynn disputes Defendants’ characterizations of his and his wife’s concerns. He also disputes that the concerns identified above are inclusive of all of their concerns. Flynn’s email speaks for itself. *See* Emails (Ex. B). Flynn also disputes Defendants’ characterization of Superintendent Welch’s email. Superintendent Welch’s email speaks for itself. *See id.*

12. The next day, October 14, 2020, Flynn sent Welch another email, informing him that he and his wife were removing their children from the Dedham Public Schools. Welch Exhibit 3; October 14, 2020 Email; pg. 1. Upon receiving the email, Welch responded and asked to meet with Flynn and his wife to discuss his concerns. *Id.* at 3.

**Response: Disputed.** Flynn disputes Defendants’ characterizations of his and his wife’s concerns. He also disputes that the concerns identified above are inclusive of all of their concerns. Flynn’s emails speak for themselves. *See* Emails (Ex. B). Flynn also disputes Defendants’ characterization of Superintendent Welch’s email. Superintendent Welch’s email speaks for itself. *See id.*

13. On October 21, 2020, Flynn and his wife met with Welch to discuss the situation involving their daughter’s class. Flynn Dep., 84:18-85:24; Welch Exhibit 6; October 22, 2020 Email; pg. 1.

**Response: Not Disputed.**

14. After that meeting, on October 22, 2020, Flynn sent an email to several members of the Dedham School Committee as well as his family and friends. Flynn Dep., 92:15-93:6;

132:8-21. The title of the email was “This is the final draft of my entire message—please share.” Welch Exhibit 6; October 22, 2020 Email; pg. 1. In the email, Flynn made the following statements about the Dedham Public Schools and Superintendent Welch.

- a. “It was very clear that he [Welch] was only there to hear Ann [Flynn] and myself so he can say he listened to us.”
- b. “He [Welch] then started on about how Dedham Schools must be committed to being more involved with Diversity, Equity and Inclusion. . . . Equity is not humanly possible Equity is a word used by socialist [sic].”
- c. “He [Welch] said that Dedham schools are open to people expressing themselves in ways they feel will help the students. He then said that there are no restrictions to that but I said, but you will not let a kid wear a Budweiser shirt in school when Bud never killed anyone and BLM has.”
- d. “He [Welch] said that we need to understand the cultures of all these families from around the globe such as some cultures may not look people in the eye if its offensive to their culture. I interjected and said, not when they are in this country. I understand if I traveled there but now they are here. I should not have to adapt to their culture, they should adapt to America.”
- e. “I told him [Welch] that the truth about the hatred and violence involved in the BLM movement will all come out and everyone will see for themselves very soon. I told him that I believed that celebrating Thanksgiving and Christmas in peace and harmony this year may be in jeopardy. He [Welch] told me that he did not believe that and that was only my opinion. I also said, there is a right way to go about teaching young minds about the issues and differences in the world and a

wrong way to do it. DPS [Dedham Public Schools] is wrong at this time. They are creating separation. They are starting the process of division which leads to civil unrest.”

f. “I will sum up the Superintendent’s meeting with my wife and I.

- He supports BLM
- He thinks Dedham is “astronomically white”
- He allows politics in the classroom.

....

- He thinks every employee of the schools need to be taught how to care for, communicate with and understand the lives of people from all races/cultures

- He did not care that his teachers are indoctrinating 12 year old children
- He did not care that the Middle School principal lied to us twice

....

- He doesn’t care about the people in this town.”

g. “He [Welch] acted like a weak, soft canary and did nothing about the issues in the schools that will all become a real major problem involving hatred and violence very soon.”

h. “He [Welch] is the wrong man for the job. Every kid in the Dedham Public Schools is in for a rude awakening in some of their classes.”

Welch Exhibit 6; October 22, 2020 Email; pg. 2-5.

**Response: Disputed. Flynn disputes Defendants’ characterizations of his and his wife’s concerns. He also disputes that the concerns identified above are inclusive of all of their concerns. Flynn’s email speaks for itself. See Emails (Ex. B).**

15. Welch received a copy of the October 22, 2020 email from a school committee member. Welch Dep., 48:1-4. In reviewing the email, Welch was concerned that given Flynn's public statements about the school district and himself, he could no longer represent the school as the head football coach at Dedham High School. Welch Dep., 48:20-49:5; 78:12-79:15.

**Response: Not Disputed.**

16. In November and December 2020, Welch discussed his concerns with Traister, Forrest and other members of the School Committee. Welch Dep., 50:16-53:1, 63:20-65:7. All of the individuals with whom Welch discussed the October 22, 2020 email with had similar concerns about Flynn. Welch Dep., 63:20-65:7, 76:19-77:6.

**Response: Disputed. Defendants' decision not to reappoint Flynn was made based on more than just Flynn's October 22, 2020 email. Welch's Interrogatory Answers (Ex. L) at 4 ("The decision not to reappoint Plaintiff as football coach was made based on the statements made and positions taken in Plaintiff's October 2020 *emails* sent to members of the School Committee." (emphasis added)); Forrest's Interrogatory Answers (Ex. M) at 2 ("The decision not to reappoint Plaintiff as football coach was made based on the statements made and positions taken in Plaintiff's October 14 and 23, 2020 emails sent to members of the School Committee."); Traister's Interrogatory Answers (Ex. N) at 3 ("The decision not to reappoint Plaintiff as football coach was made based on the statements made and positions taken in Plaintiff's October 2020 *emails* sent to members of the School Committee." (emphasis added)). For this reason alone, Defendants' motion for summary judgment should be denied.**

17. In addition, Welch discussed his decision not to reappoint Flynn with legal counsel for Dedham Public Schools. Welch Dep., 74:1-21.

**Response: Disputed. Superintendent Welch only spoke with legal counsel for Dedham Public Schools about "contractual issues." Ex. C (Welch Dep.) at 74:7-75:17; He did not**

**speak to him about Flynn's First Amendment rights. *Id.* at 83:8-11.**

18. At that time, due to COVID, there was no decision whether there would be a high school football season in 2020-2021. Welch Dep., 52:16-22. As such, Welch did not take any action in response to Flynn's email in November or December 2020. Welch Dep., 63:8-19.

**Response: Not Disputed.**

19. In December 2020, Welch learned that there would be a football season in the spring of 2021. Welch Dep., 63:12-15. As such, Welch, after consultation with Forrest and Traister, made a preliminary determination that Flynn would not receive an appointment to be the head football coach. Welch Dep., 75:18-77:6.

**Response: Disputed. Defendants, not Welch alone, made the decision not to reappoint Flynn. Traister Dep. (Ex. D) at 69:7-70:2; Welch's Interrogatory Answers (Ex. L) at 3 ("Defendants Michael Welch, Jim Forrest, and Steve Traister jointly made the decision not to reappoint Plaintiff as football coach."); Forrest's Interrogatory Answers (Ex. M) at 3; Traister's Interrogatory Answers (Ex. N) at 2.**

20. Welch, Forrest and Traister asked to meet with Flynn to discuss his October 22, 2020 email. Welch Dep., 91:6-19, 96:12-18. On January 20, 2021, the four individuals met at Dedham High School. Welch Dep., 92:11-13; Flynn Dep., 130:4-12.

**Response: Disputed. Prior to the meeting, Flynn did not know the purpose of the meeting. Flynn Dep. (Ex. F) at 127:15-17.**

21. During the meeting, Welch, Forrest and Traister gave Flynn an opportunity to modify and/or apologize for his statements in his October 22, 2020 email. Welch Dep., 83:12-84:16, 91:6-92:13, 98:5-21. Flynn reiterated his opposition to the school's commitment to equity and did not apologize for his actions or the statements made in the email. Welch Dep., 98:5-21; Flynn Dep., 125:5-23. During this meeting, Forrest informed Flynn that he would not



be reappointed as the head football coach. Welch Dep., 97:13-22.

**Response: Disputed. During the meeting Flynn did not reiterate his opposition to the school's commitment to equity, he stated that he does not believe equity works in certain situations. Flynn Dep. (Ex. F) at 133:22-134:1.**

22. Prior to the meeting, Defendants had prepared a letter to be mailed to Dedham High School football students and parents, informing them that Flynn would not be reappointed as the football coach. Welch Dep., 93:16-23. After the meeting ended, Forrest sent the letter to the intended recipients. Welch Dep., 105:18-106:10, Flynn Exhibit 5.

**Response: Not Disputed.**

23. If Flynn apologized or expressed remorse about his actions during the January 20, 2021 meeting, Welch, Forrest and Traister may have reconsidered their decision not to reappoint Flynn. Welch Dep., 84:11-16, 96:8-11, 105:23-106:5.

**Response: Not Disputed.**

24. After sending the letter to Dedham High School football students and parents, Forrest and Traister made no other public statements about the decision not to reappoint Flynn as the head football coach and Welch coordinated the release of a single media statement reiterating the statements made in the letter. Welch Dep., 106:16-21, 108:8-109:4; Welch Exhibit 10; January 21, 2021 Media Statement.

**Response: Disputed. Both the letter and the media statement did more than just announce the decision not to reappoint Flynn as head football coach. The letter stated, in pertinent part:**

**We are also writing today and are sorry to inform you that Dave Flynn will not be reappointed as the Head Coach of Dedham High School football. We met with Mr. Flynn today because he has expressed significant philosophical differences with the direction, goals, and values of the school district. Due to**

these differences, we felt it best to seek different leadership for the program at this time.

**Ex. J. In the media statement, Superintendent Welch is quoted as stating:**

**The difficult decision not to reappoint Coach Dave Flynn as the Head Football Coach of Dedham High School was made due to significant, repeatedly expressed, philosophical differences with the direction, goals, and values of the school district. As a district, we actively try to encourage our staff and students to give constructive voice to their opinions, but must also ensure we stay true to our overarching mission and vision for the district – in the classroom, on the field, and in our community. We want to thank Coach Flynn for his years of coaching leadership for our student athletes at Dedham High School.**

**Ex. K.**

Dated: February 17, 2022

Respectfully submitted,

/s/ Michael Bekesha  
Michael Bekesha (BBO No. 675787)  
JUDICIAL WATCH, INC.  
425 Third Street, S.W., Suite 800  
Washington, DC 20024  
Tel: (202) 646-5172

*Counsel for Plaintiff*

**Certificate of Service**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 17, 2022.

/s/ Michael Bekesha